

December 9, 2003

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

Re: *Amendment of Parts 1, 21, 73, 74 and 101 of the Commission's Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and other Advanced Services in the 2150-2162 and 2500-2690 MHz Bands* – WT Docket No. 03-66 --
NOTICE OF EX PARTE PRESENTATION

Dear Ms. Dortch:

Yesterday, Dr. Michael R. Kelley of the George Mason University Instructional Foundation and the Capital Connection (collectively "GMUIF"), along with the undersigned, met with Commissioner Kevin J. Martin and his legal advisor, Samuel Feder, to discuss GMUIF's positions regarding the *Notice of Proposed Rulemaking* ("NPRM") in the referenced proceeding.

Dr. Kelley expressed GMUIF's support for the proposals advanced by the Wireless Communications Association International, Inc., the Catholic Television Network, and the National ITFS Association (the "Coalition") for rebanding the 2500-2690 MHz band and transitioning to that new bandplan. He refuted assertions by the New America Foundation and its allies that the Instructional Television Fixed Service ("ITFS") was underutilized. He emphasized that many educational institutions were planning on making increased use of the band for data services, as well as video services. Dr. Kelley noted the importance of preserving spectrum for high-power video services as proposed by the Coalition. The participants discussed the Commission's 2001 decision to preserve the ITFS allocation, to add a mobile allocation, and to adopt new service rules – a decision that led to the issuance of the pending *NPRM*.

In response to a question, Dr. Kelley expressed GMUIF's view that ITFS licensees should be permitted to engage in secondary market transactions that would permit underlay or opportunistic use, but that unlicensed underlays or opportunistic use should not be permitted without the consent of the licensee of the spectrum at issue.

Marlene H. Dortch
December 9, 2003
Page 2

Dr. Kelley discussed the proposal advanced by the Coalition for transitioning from the current bandplan to a new bandplan that they have proposed. He stressed the importance of funding the transition for ITFS licensees and avoiding unnecessary delay. The participants also discussed the *NPRM*'s proposal to permit ITFS licensees to assign their authorizations to entities that are not currently eligible to hold such licenses and the possibility of allowing ITFS licensees to engage in such assignments with respect to their spectrum in the cellular portions of the band, but not in the high-power portion.

Should you have any questions regarding this presentation, please contact the undersigned.

Respectfully submitted,

/s/ Paul J. Sinderbrand

Paul J. Sinderbrand

cc: Samuel Feder